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Deed of Assignment of Intellectual Property Rights

Compumedics Holdings Pty Ltd

and

Compumedics Limited

RECEIVED
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TECHNICAL SERVICES DIVISION

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Reference FDG:20871441

This Deed of Assignment of Intellectual Property Rights

is made on 29 November 2000
between the following parties:

1. **Compum dics Holdings Pty Ltd**
A.C.N. 006 201 770
of 1 Marine Parade, Abbotsford, Victoria,
Australia
(**"Holdings"**); and
2. **Compumedics Limited**
A.C.N. 006 854 897
of 1 Marine Parade, Abbotsford, Victoria,
Australia
(the **"Assignee"**)

Recitals

- A. Holdings owns the Intellectual Property Rights (as defined in this deed).
- B. On the terms contained in this deed:
 - (i) Holdings has agreed to assign the Intellectual Property Rights to the Assignee; and
 - (ii) The Assignee has agreed to acquire the Intellectual Property Rights from Holdings.
- C. The Assignee has agreed to license the intellectual property rights residing in the Shared Digital Imaging Technology to Holdings, on the terms contained in this deed and Holdings has agreed to accept a licence from the Assignee on those terms.

This deed records as follows:

1 Definitions and Interpretation

In this deed, unless the context requires otherwise:

"Completion" has the same meaning as given to this term in clause 1.1 of the Share Purchase Agreement;

"Intellectual Property Rights" means all of Holdings' rights in the following:

- (a) patents;
- (b) trade and service marks (both registered and unregistered) (including Holdings' goodwill in those trade marks);
- (c) copyright;

- (d) designs (both registered and unregistered);
- (e) confidential information, trade secrets and know how;
- (f) trade names;
- (g) business names;
- (h) indications of source;
- (i) appellations of origin;
- (j) eligible layout rights;
- (k) plant breeders' rights;
- (l) utility models;
- (m) domain names;
- (n) inventions and discoveries;
- (o) scientific, technical and product information;
- (p) all other rights in the nature of "industrial property" falling within the definition of that term in Article 1 of *the Paris Convention for the Protection of Industrial Property* (done at Stockholm in 1883, and as revised from time to time);
- (q) any application or the right to apply for registration of any of the rights referred to in paragraphs (a) to (p) of this definition;
- (r) any letters patent or registration in respect of any of the rights referred to in paragraphs (a) to (p) of this definition;
- (s) the Shared Digital Imaging Technology; and
- (t) specifically, all the rights listed in Parts A and B2 of the Schedule

but excludes all Holdings' intellectual property rights residing as at Completion in the Non-Shared Digital Imaging Technology.

"Non-shared Digital Imaging Technology" means the field of generating two or three dimensional images (where time is not a dimension for the purpose of this definition) of human patient measurements:

- (b) for dissemination via telephonic or electronic means (such as via the internet); or
- (c) for use in diagnostic medical imaging procedures of the kind practised within hospitals and medical clinics; and
- (d) together with associated workflow technology

and includes specifically the files listed in Part B1 of the Schedule. Holdings and the Assignee agree that the scope of this definition is subject to any determination made under clause 6 of this deed.

"Schedule" means the Schedule to this deed.

"Shared Digital Imaging Technology" means digital imaging technologies that have been developed from core technologies of the Compumedics corporate group, being specifically the files listed in Part B2 of the Schedule.

"Share Purchase Agreement" means the agreement made between Holdings and the Assignee on the same date as this deed, pursuant to which, amongst other things, the Assignee is purchasing the shares in Compumedics Cardiology Pty Ltd (ACN 078 862 781), Compumedics Neuro Science Pty Ltd (ACN 006 970 921), and Compumedics Telemed Pty Ltd (ACN 006 374 974). Assignment of the Intellectual Property Rights to the Assignee

2 Assignment of the Intellectual Property Rights to the Assignee

In consideration of the Assignee (1) paying Holdings the sum of **\$50,000.00 (Fifty thousand Australian Dollars)** (the **"Monetary Consideration"**) (the Monetary Consideration forming part of the cash consideration payable under the Share Purchase Agreement) and (2) the licence back (in clause 7 of this deed) of the intellectual property rights residing in Shared Digital Imaging Technology, Holdings, as the legal and beneficial owner of the Intellectual Property Rights, assigns, transfers and sets over to the Assignee, all of its rights, title and interest in and to the Intellectual Property Rights, including all of Holdings' rights to take action against any third party in respect of any infringement or breach of the Intellectual Property Rights (whether the infringement or breach occurred on or before the date of this deed).

3 Further Assurances

- 3.1 Holdings agrees that upon receiving a written request from the Assignee, it will promptly take such actions as the Assignee may reasonably require (including signing documents, giving such evidence as the Assignee may reasonably require, and procuring its employees or former employees to sign such documents and give such evidence as the Assignee may reasonably require) in order to
- (a) vest in the assignee, the transfer of ownership of the Intellectual Property Rights effected by this deed;
 - (b) assist the Assignee in proving or confirming the authorship, inventorship or the identity of the creator or creators of any or all of the Intellectual Property Rights;
 - (c) assist the Assignee in proving or confirming that on and from Completion, the Assignee is the legal and beneficial owner, free from encumbrances and all other third party rights, of the Intellectual Property Rights; and
 - (d) assist the Assignee in prosecuting or defending any legal or quasi-legal proceeding before any court or governmental agency in which either Holdings and/or the Assignee is involved as a party, and concerning any of the Intellectual Property Rights (such proceedings including, but not being limited to any opposition, cancellation or expungement proceedings, interference proceedings and any infringement or revocation proceedings).
- 3.2 If Holdings declines, neglects, fails or refuses to provide any of the kinds of assistance called for in Clause 3.1 within a reasonable time of being requested in writing by the Assignee to do so, then, to the extent permitted by law, Holdings

irrevocably appoints the Assignee and each of the directors for the time being of the Assignee jointly and severally as its attorney with power to take such actions in the name of Holdings, as the Assignee may reasonably require for giving effect to clause 3.1. Nothing in this clause 3.2 however, operates to absolve Holdings from its obligations under clause 3.1 to the Assignee.

- 3.3 In consideration of clauses 3.1 and 3.2, the Assignee agrees to pay for any reasonable expenses Holdings incurs in connection with performing its obligations under clause 3.1.

4 Warranties

Holdings warrants to the Assignee as follows:

- (a) that the Assignee will, on and after Completion, be the legal and beneficial owner, free from any and all encumbrances and third party rights whatsoever, in the Intellectual Property Rights;
- (b) that neither Holdings, nor any of its directors, secretaries or officers knows of any reason why any of the Intellectual Property Rights is or may be declared invalid or open to revocation, cancellation, expungement, opposition or any other kind of legal challenge by any third party;
- (c) that neither Holdings, nor any of its directors, secretaries or officers knows of any infringement or breach of any of the Intellectual Property Rights (which infringement or breach was not completely resolved prior to Completion);
- (d) that the Assignee's use, on and after Completion, of the Intellectual Property Rights will not infringe the rights of any third party;
- (e) that Holdings has not, prior to Completion:
 - (i) assigned to any third party;
 - (ii) licensed to any third party;
 - (iii) encumbered in favour of any third party; or
 - (iv) otherwise dealt commercially in;any of the Intellectual Property Rights.

5 The Monetary Consideration to be kept Confidential

Unless the Assignee gives Holdings express prior written permission to do so, Holdings agrees to refrain at all times from disclosing to any third party, any information in respect of the Monetary Consideration, other than for the purpose of enforcing this deed or as required by law.

6 Determination regarding the scope of Non-Shared Digital Imaging Technology

Holdings and the Assignee agree that if any uncertainty or dispute (a "Dispute") arises with respect to the scope of the definition of the term "Non-Shared Digital Imaging Technology" in clause 1 of this deed, that the Dispute is to be resolved by a determination made by an independent person (an "Expert") appointed by agreement of the parties (and in default of agreement, by the nominee of the President for the time being of the Law Institute Victoria (or any body which replaces or substantially succeeds to the powers exercised at the date of this deed by that body)). For this purpose, Holdings and the Assignee agree that:

- (a) the Expert is appointed as an expert, and not an arbitrator;
- (b) the proceedings before the Expert for resolving the Dispute are not arbitration proceedings and are thus not governed by the *Commercial Arbitration Act (1984) (Vic)* (or by any law which amends, repeals or wholly or substantially replaces that Act);
- (c) Holdings and the Assignee will come to an agreement on the procedure to be followed before the Expert, and in default of agreement, they will follow any procedure stipulated by the Expert;
- (d) they will equally bear the Expert's costs of determining the Dispute, irrespective of the outcome; and
- (e) the Expert's determination is final and binding on each of Holdings and the Assignee.

7 Grant of licence back to Holdings

7.1 Grant of licence

The Assignee grants Holdings a perpetual, irrevocable, fee-free, non-exclusive licence throughout the world to:

- (a) use the Licensed IP Rights to manufacture Products for use in the Field of Use and to sell the Products for use in the Field of Use;
- (b) use the Licensed IP Rights to conduct research and development activities in the Field of Use and to create Improvements; and
- (c) use all Improvements to manufacture Products for use in the Field of Use, and to conduct research and development activities in the Field of Use,

and the Assignee reserves all other rights residing in the Licensed IP Rights and any Improvements to itself.

7.2 Other uses prohibited

Holdings must not use the Licensed Rights or any Improvements for any purpose other than the purposes described in clause 7.1.

7.3 Ownership of Improvements

The parties agree that the party which develops an Improvement owns the intellectual property rights in that Improvement.

7.4 Further Assurances regarding licence back

Each of Holdings and the Assignee agrees to take such actions as the other may reasonably require in order to give full effect to the licence to Holdings conferred by this clause 7. If either Holdings or the Assignee gives the other written notice of its desire for the parties to reach a more comprehensive written agreement regarding the terms of the licence conferred by this clause 7, the recipient of that notice must co-operate reasonably and in good faith to negotiate with the party giving that notice, the conclusion of a licence agreement containing more comprehensive commercial terms to govern the licensing relationship between the parties.

7.5 Definitions

In this clause 7, unless the context requires otherwise:

"Field of Use" means the generation of two or three dimensional images (where time is not a dimension for the purpose of this definition) of human patient measurements:

- (a) for dissemination via telephonic or electronic means (such as via the internet); or
- (b) for use in diagnostic medical imaging procedures of the kind practised within hospitals and medical clinics; and
- (c) together with associated workflow technology

"Improvement" means a change (including an addition) to either or both the Shared Digital Imaging Technology or the Licensed IP Rights;

"Licensed IP Rights" means the intellectual property rights residing in the Shared Digital Imaging Technology;

"Products" means diagnostic and therapeutic medical equipment.

8 Covenant not to Sue and Indemnities given by Holdings

8.1 Holdings agrees:

- (a) never to commence or pursue any legal action against the Assignee; and
- (b) to procure that each and any person who succeeds to Holdings' rights in, or who claims through Holdings in respect of the Non-Shared Digital Imaging Technology, refrains from commencing or pursuing any legal action against the Assignee

in respect of any use the Assignee of the Non-Shared Digital Imaging Technology.

- 8.2 Holdings indemnifies the Assignee against any damage, expense, loss or liability which the Assignee suffers or incurs in connection with any of the following:
- (a) a breach of any of the warranties given by Holdings in clause 4;
 - (b) a breach of clause 8.1 of this deed.

9 Governing law and jurisdiction

- (a) This deed is governed by the law of the State of Victoria, Commonwealth of Australia.
- (b) Each of the parties irrevocably submits to the **exclusive** jurisdiction of the courts of the State of Victoria, Commonwealth of Australia.

THE SCHEDULE

PART A

Patents and Patent Applications

Jurisdiction	Application or Patent Number	Title of Invention
Australia	604783	Control system
United States of America	09/465,054	Biomask

Trade Marks

Jurisdiction	Number	Trade Mark	Class
Australia	818749	Antisnooze	9 and 10
Australia	818750	Vigilance	9 and 10
Australia	801536	Cardiowave	10
Australia	780311	C and Logo	9 and 10
Australia	554007	CM Compumedics	9
Australia	554008	CM Compumedics	10
Australia	801538	Echolink	10
Australia	801540	Echowatch	10
Australia	795058	Serenesleep	10
Australia	778893	Siesta	10
Australia	795057	Sleeplink	10
Australia	786272	Sleepset	10
Australia	786273	Sleeptrack	10
Australia	778896	SPAP	10
Argentina	2139287	Compumedics	10
Argentina	2139286	Compumedics	9
Brazil	821953842	Cardiowave	10
Brazil	820490814	Compumedics	9.15
Brunei	28000	Compumedics	10
Canada	1042828	Cardiowave	10
Canada	845,619	CM Logo	10
Canada	845,621	Compumedics	10
Chile	531.147	Compumedics	10
Egypt	113965	Compumedics	10
European Community	1460492	Cardiowave	9 and 10

European Community	1200070	CM (Logo)	9 and 10
European Community	551614	Compumedics & CM Logo	9 and 10
European Community	001176296	Siesta	9 and 10
European Community	001175942	SPAP	9 and 10
India	762643	Compumedics	10
Indonesia	412458	Compumedics	5
Iran	86705	Compumedics	10
Israel	134,090	Cardiowave	10
Israel	113926	Compumedics	10
Japan	4277/2000	Cardiowave	10
Japan	4392595	CM (Logo)	10
Japan	4230795	Compumedics	9 and 10
Japan	43554/1999	Siesta	10
Japan	4382923	SPAP	10
Malaysia	2000/00705	Cardiowave	10
Malaysia	99/04739	CM (Logo)	10
Malaysia	99/04267	Siesta	10
Malaysia	99/04266	SPAP	10
Mexico	582,895	Compumedics	10
Norway	190.869	Compumedics	9 and 10
Oman	17677	Compumedics	10
Pakistan	146715	Compumedics	10
Peoples Republic of China	9900063911	CM (Logo)	10
Peoples Republic of China	1255379	Compumedics	10
Peoples Republic of China	1239093	Compumedics	9
Peoples Republic of China	9900055179	Siesta	10
Peoples Republic of China	9900055180	SPAP	10
Poland	Z-177,158	Compumedics	10
Republic of Korea	2000-2118	Cardiowave	10
Republic of Korea	99-19254	CM (Logo)	10
Republic of Korea	417642	Compumedics	10
Republic of Korea	99-17165	Siesta	10
Republic of Korea	471360	SPAP	10
Russian Federation	2000700742	Cardiowave	10
Russian Federation	99708395	CM (Logo)	10
Russian Federation	97711722	Compumedics	10
Russian Federation	99707500	Siesta	10

Russian Federation	99707451	SPAP	10
Saudi Arabia	495/7	Compumedics	10
Singapore	471/00	Cardiowave	10
Singapore	5528/99	CM (Logo)	10
Singapore	4730/97	Compumedics	10
Singapore	5048/99	Siesta	10
Singapore	5049/99	SPAP	10
South Africa	97/10870	Compumedics	10
Spain	2285437	Cardiowave	10
Switzerland	448914	Compumedics	10
Taiwan (ROC)	00863692	Compumedics	10
The Philippines	02325	Compumedics	10
United States of America	75/905491	Cardiowave	10
United States of America	75/719,186	CM (Logo)	10
United States of America	75/294,977	CM Logo	9 and 10
United States of America	75/294,981	Compumedics	9 and 10
United States of America	75/708,322	Siesta	10
United States of America	75/708,323	SPAP	10
Vietnam	44 599	Cardiowave	10
Vietnam	30 979	Compumedics	10